

REMARKS

Claims 1 to 38 are in this application. Claims 21 to 38 have been added. Support for Claims 21 to 38 is found, *inter alia* in paragraphs [0033] and [0034] of the application.

According to the Official Action, Claims 15 - 20 are rejected as not being enabled for treating or preventing a disease caused by a microbial infection. This is respectfully traversed.

Claims 15 - 20 have been amended to replace the phrase “microbial infection” with “bacterial infection”. Support for this is found, *inter alia*, in paragraphs [0033] and [0034] of the application.

Support for prophylactic use of the compounds is found in [0034]. Prophylactic treatment to prevent bacterial infections is known in the art. It is known that patients who have undergone surgery or are hospitalized face an increased risk of infection and it is not unusual for the patient to be treated prophylactically with an antibacterial drug. It is also known to treat certain immuno-compromised patients prophylactically.

Therefore, it is respectfully requested that this rejection be withdrawn.

According to the Official Action Claims 15 - 20 are rejected because the specific diseases are not defined. This is respectfully traversed.

Based on the amendment of Claims 15 - 20 to define the microbial infection as a bacterial infection, it is submitted that the rejection is moot. One skilled in the art has

knowledge of the type of diseases caused by bacteria. Paragraph [0033] includes a description of certain diseases that are caused by bacteria.

The Examiner considers that Claims 18 - 20 are indefinite because the degree of prevention is not defined. Claims 18-20 have been amended to define prevention of a disease caused by a bacterial infection. If the patient who is at risk for developing the infection does not develop the disease then it can be said that the disease has been prevented.

Therefore, it is respectfully requested that this rejection be withdrawn.

According to the Official Action, Claims 1 - 20 are rejected under 35 USC 103(a) as being obvious over de Souza et al. (U.S. Patent 6,664,267).

This is respectfully traversed.

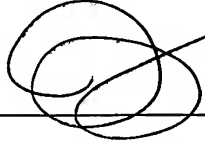
As noted on page 5 of the Official Action, U.S. Patent 6,664,267 constitutes prior art only under 35 USC 102(e). Both this application and the application which issued as U.S. Patent 6,664,267 were filed after November 29, 1999. Attached is the declaration of Dr. Mahesh Patel, who is inventor of subject matter claimed in this application and subject matter claimed in U.S. Patent 6,664,267. In his declaration, Dr. Patel declares that at the time the invention described in U.S. Patent 6,664,267 was made the invention was owned by and the inventors were under an obligation to sign an assignment assigning the invention to Wockhardt Limited. Similarly, at the time the invention described in U.S. Patent Application 10/749,932 was made, the invention was owned by and the inventors were under an obligation to sign an assignment assigning the invention to Wockhardt Limited. A copy of the recorded assignments for U.S. Patent Application 10/749,932 and a printout from the

USPTO website U.S. Patent 6,664,267 are attached.

Therefore, basef on MPEP 706.02(l)(3) it is respectfully requested that the rejection be withdrawn.

It is submitted that this application is in condition for allowance and favorable consideration is respectfully requested.

Respectfully submitted,

A handwritten signature in dark ink, consisting of a series of loops and a long horizontal stroke extending to the right, positioned above a solid horizontal line.

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